VIA EMAIL

November 19, 2012

PREMERA | BLUE CROSS

Mr. James T. Odiorne
Deputy Insurance Commissioner
Company Supervision
State of Washington
P. O. Box 40255
Olympia, WA 98504-0255

RE: Comments on Preliminary Draft Holding Company Act and Regulations

Dear Deputy Commissioner Odiorne:

Thank you for giving Premera Blue Cross (Premera) the opportunity to comment on the preliminary draft Holding Company Act (based on NAIC Model Law #440) and preliminary rule draft (based on NAIC Model Regulation #450). Below you will find our detailed comments.

Preliminary Draft Act

(1) Section 2 Subsidiaries of Insurers and Subsection 6(1)(e). We agree with the Section 2 deletions from the previous version circulated. We do request clarification regarding Section 2(5); what is the notification process that would apply to this section? Similarly, we request clarification regarding the circumstances under which 6.1(e) would apply, as well as the notification process.

(2) Subsection 4(4) Competitive Standard. We note that this Section continues to incorporate the standards applicable to insurers. While these standards may be appropriate for insurers, we believe that the standards outlined in RCW 48.31C.030(5)(a)(ii) are more appropriate for health care service contractors. The Office of the Insurance Commissioner recognized the unique nature of the health plan business and did not incorporate the insurer tests into the original Holding Company Act for Health Care Service Contractors and Health Maintenance Organizations. A separate standard has worked well for health care service contractors since 2001, and should continue to apply to health care service contractors.

(3) Subsection 5(4) Materiality Threshold. While these standards may be appropriate for insurers, we believe that the standard outlined in RCW 48.31C.040(4) is more appropriate for health care service contractors, has worked well since 2001, and should continue to apply to health care service contractors.

(4) Section 5(12) Enterprise Risk Filing Requirements. We request further discussion and clarification regarding the types of risks that would trigger reporting under the new Form F Enterprise Risk Report to the Annual Registration statement. For example, Subsection 1(6), Definition of Enterprise Risk, is critical for determining what information must be provided on Form F. The definition included in the preliminary draft references two examples of events that would constitute a "material adverse effect upon the financial condition or liquidity of the insurer or its

insurance holding company system as a whole": anything that would cause the insurer to fall into company action level or be in hazardous financial condition. We agree that these standards are appropriate; however, as currently drafted these standards are merely examples. We recommend that the "including, but not limited to" text be removed so that the industry has greater certainty regarding the thresholds for reporting potential risks on Form F. In addition, it is unclear what reporting might be required with respect to certain items on the list set forth in Form F. Most of the items are events or specific developments; however, "(e) business plan of the insurance holding company system and summarized strategies for the next 12 months" and "(g) identification of insurance holding company system capital resources and material distribution patterns" are more general references. It is unclear what might trigger reporting in either of these areas and/or what type of disclosure is required in these areas.

(5) Subsections 6(1)(b) Transactions Within an Insurance Holding Company System. While the material thresholds may be appropriate for insurers, we believe that the various materiality thresholds outlined in RCW 48.31C.050(1)(e) and (2) are more appropriate for health care service contractors, have worked well since 2001, and should continue to apply. With respect to notices of amendments or modifications to a previously approved transaction, it appears there is a new requirement for carriers to include "the financial impact on the domestic insurer." The preliminary draft regulation does not appear to define how this is to be measured for reporting purposes. We believe that more refinement of this requirement is necessary.

(6) Subsection 6(3) Management of Domestic Insurers Subject to Registration. We do not believe this section exists today in law, and do not believe it is necessary. We request that the Office of the Insurance Commissioner provide its rationale why additional regulation of corporate governance is necessary in Washington State.

(7) Subsection 8(A) Confidential Treatment. We continue to be concerned that information provided under this Act is not afforded the same protections as information provided under the Market Conduct Oversight Act and the Public Records Act. Washington's Public Records Act explicitly exempts from disclosure the following information relating to insurance:

> "(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;
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> (13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080"

We believe there should be parallel provisions for this Act. We believe that existing sections RCW 42.56.400(12) should be amended to include Section 7 of the Holding Company Act and RCW 42.56.400(13) should be amended to include Section 9 of the Holding Company Act. In addition, Section 9 of the Act should be revised to parallel RCW 48.37.080(1) and (2). These changes would also eliminate the need to for Section 8 of the preliminary draft rule with respect to some or all filings under the Act.

Preliminary Draft Regulations

(8) Section 20(2) requires specific contractual terms in intercompany agreements. We request clarification why this new subsection is necessary, how the "and as applicable" is intended to be applied, and how this regulation, if enacted, would affect existing intercompany agreements.

(9) Section 23, Adequacy of Surplus. Section 6(4) of the statute outlines the specific factors that must be considered. However, draft rule Section 23 states that the list in the statute is not exhaustive. We are concerned that, as drafted, the broad authority afforded the Commissioner in this rule will not provide adequate certainty to insurers for ensuring compliance with respect to this section of the Act.

We look forward to working with your office on this potential legislation and regulation. If you have any questions concerning my comments, please feel free to call me at 425.918.3590.

Sincerely,

Sarah Mackey

Sarah Mackey
Deputy General Counsel